

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

No. 08-882V

Filed: February 18, 2015

LUIS VERGARA and JACKELINE *
MORA ANGARITA, parents and natural *
guardians of J.A.V., a minor, *

Petitioners, *

v. *

SECRETARY OF HEALTH *
AND HUMAN SERVICES, *

Respondent. *

Attorney Fees and Costs; Stipulation

Donald M. Gerstein, Esq., Richard Gage, P.C., Cheyenne, WY, for petitioners;
Justine E. Walters, Esq., U.S. Dept. of Justice, Washington, DC, for respondent.

DECISION ON ATTORNEY FEES AND COSTS¹

Vowell, Chief Special Master:

In this case under the National Vaccine Injury Compensation Program,² I issued a decision on September 10, 2014 denying entitlement to compensation. On January 9, 2015, petitioners filed an Application for Award of Attorney's Fees and Reimbursement of Costs.³ During informal discussions, respondent raised objections to certain items in the Application. On February 17, 2015, the parties filed a stipulation for attorney fees and costs. The stipulation indicates that respondent does not object to the amount petitioner is requesting. Additionally, pursuant to General Order #9, the stipulation notes that petitioners incurred \$1,500.00 in personal litigation costs.

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to delete medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will delete such material from public access.

² The applicable statutory provisions defining the program are found at 42 U.S.C. § 300aa-10 *et seq.* (2006).

³ Petitioners were previously awarded \$44,190.90 for interim attorneys' fees and costs in this case on July 17, 2014.

I find that this petition was brought in good faith and that there existed a reasonable basis for the claim. Therefore, an award for fees and costs is appropriate, pursuant to 42 U.S.C. §§ 300aa-15(b) and (e)(1). Further, the proposed amount seems reasonable and appropriate. **Accordingly, I hereby award the total \$10,893.99⁴ as follows:**

- **A lump sum of \$9,393.99 in the form of a check payable jointly to petitioners and petitioners' counsel of record, Donald Gerstein, for petitioners' attorney fees and costs; and**
- **A lump sum of \$1,500.00 in the form of a check payable to petitioners, Luis Vergara and Jackeline Mora Angarita, for their personal litigation costs.**

The clerk of the court shall enter judgment in accordance herewith.⁵

IT IS SO ORDERED.

s/ Denise K. Vowell
Denise K. Vowell
Chief Special Master

⁴ This amount is intended to cover all legal expenses incurred in this matter. This award encompasses all charges by the attorney against a client, "advanced costs" as well as fees for legal services rendered. Furthermore, 42 U.S.C. § 300aa-15(e)(3) prevents an attorney from charging or collecting fees (including costs) that would be in addition to the amount awarded herein. See *generally Beck v. Sec'y, HHS*, 924 F.2d 1029 (Fed. Cir.1991).

⁵ Entry of judgment can be expedited by each party's filing of a notice renouncing the right to seek review. See Vaccine Rule 11(a).